

REMARKS

Status of Claims

Claims 1, 3 and 5-22 remain for examination.

Double Patenting Rejection

Claims 1, 3 and 5-22 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-28 of U.S. Patent 6,754,142.

The examiner's rejection is respectfully traversed.

The instant application is a divisional application of serial no. 09,736,368, filed December 15, 2000, now U.S. Patent 6,754,142. In the parent application, claims 1-51 were initially filed. The examiner issued a restriction requirement in which claims 1-29 were grouped into group 1 and claims 30-51 were grouped into group 2. Applicant was required to elect one of the two groups and the examiner indicated that the two groups are separate and distinct inventions.

In the parent application, applicant elected group 1 consisting of claims 1-29.

The instant application was filed as a divisional application with claims 30-51 filed as divisional application claims 1-22.

In view of the restriction requirement issued by the PTO in the parent application, it is improper for the divisional application to be rejected under a double patenting obviousness type rejection. As stated in 35 U.S.C. § 121:

A patent issuing on an application with respect to which a requirement for restriction under this section has been made, or on an application filed as a result of such a requirement, should not be used as a reference either in the Patent and Trademark Office or in the courts against a divisional application or against the original application or any patent issuing on either of them, if the divisional application is filed before the issuance of the patent on the other application.

Inasmuch as applicant's divisional application was timely and properly filed, it is improper for the PTO to reject applicant's claims in the divisional application under the judicially created doctrine of obviousness-type double patenting.

Inasmuch as no other rejections are outstanding, it is submitted that the application should be passed to issue.

Conclusions

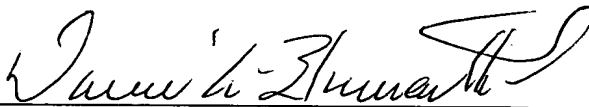
It is submitted that the application is now in condition for allowance and an early indication of same is earnestly solicited.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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By 

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